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C O N F I D E N T I A L SECTION 01 OF 03 MUSCAT 000827

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E.O. 12958: DECL: 2019/08/03

TAGS: [PREL](#) [KTIP](#) [ELAB](#) [MU](#)

SUBJECT: ABA SHOULD MAINTAIN IN-COUNTRY PRESENCE IN OMAN

REF: A. MUSCAT 787; B. MUSCAT 799; C. MUSCAT 253

CLASSIFIED BY: Victor Hurtado, CdA, Department of State, Embassy Muscat; REASON: 1.4(B), (D)

¶1. (C) Summary: Over the past two years, MEPI-funded programs implemented by the American Bar Association (ABA) have significantly advanced U.S. objectives regarding rule of law and judicial reform in Oman, in areas including Trafficking in Persons (TIP) and the Free Trade Agreement (FTA). ABA's current momentum, the fruit of years of on-the-ground relationship-building, must not be jeopardized by the removal of an in-country presence. As with the International Republican Institute (IRI) (ref A), the long-term value of this key partnership cannot be overemphasized in its contribution to meeting MSP goals. As noted in our response regarding follow-up to the President's Cairo speech (ref B), establishing useful partnerships such as this, in the Omani context, requires a significant, continuing in-country presence.

¶2. (C) Summary continued: We understand that the ABA has decided to provide limited FY09 funding to its Oman program and to remove its in-country presence at the end of this calendar year, intending to support programming in Oman out of Bahrain or Qatar. Further, this fall ABA will provide funding only for work with Oman's Judicial Training Institute, not any of the other crucial programs currently in process. MEPI has informed post that ABA has been granted \$1.15M for FY09 for programs in Algeria, Bahrain, Oman, Qatar, and Morocco, noting that, according to the ABA, Oman is one of its most expensive programs because the Omanis are not cost sharing. Post is deeply concerned that after more than two years of on-the-ground presence, at a time when the program has finally taken off, resources will be removed and relationship-building will return to square one. The current success of the program is due to having a full-time in-country program director, one who has been able to react with flexibility and creativity when necessary in the face of seemingly arbitrary bureaucracy, something that would simply not be possible from a non-resident advisor. End Summary.

Judges - Moving from Shari'a Training to Western Legal Thinking

¶3. (C) Most of the current generation of Omani judges were trained only in Shari'a law and have no academic background in Western judicial thought, even though the Sultanate's (still evolving) legal code draws from both traditions. For this group, justice is not as much about who is liable under the law, but about who "needs" the benefit from their judgment. ABA, in both formal training and ongoing informal discussion, has worked to articulate the Socratic Method of questioning as the basis for legal teaching and practice, as well as to encourage judges to weigh factors of need in the sentencing segment of a case, but not during the legal judgment itself.

Practical Legal Education - Opening of the Legal Clinic

14. (C) ABA has pinpointed the lack of practical judicial education as one of the key factors missing in Oman. Legal degrees are given as four-year university degrees with no practical component. Therefore, at the most basic level, Oman has many "lawyers" who have no idea how actually to practice law. In response, the ABA has been working with the Sultan Qaboos University (SQU) School of Law to develop a Judicial Clinic to give legal students practical experience. This is a completely new concept here and required lengthy explanations, consultation, and professor training to convince the concerned authorities that the clinic would not, for example, take business from existing law practices. [Note: A further benefit is that some of the clients for the clinic may be migrant workers who might not otherwise be able to afford legal council. End Note.] The clinic is scheduled to open in September with the beginning of the new school term and will be required of all law students.

Practical Judicial Guide (Bench Book) - Labor Law

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15. (C) In a further effort to create practical tools for the legal profession, the ABA advisor mentored an Omani legal professor to obtain a MEPI local grant which has made possible the creation of a practical judicial guide focused on labor law. In 2006, Omani labor law was almost entirely overhauled to comply with requirements of the U.S. /Oman FTA. Lacking, however, was a strategy to ensure that all players in the legal community had the knowledge to ensure that these reforms were able to be fully implemented. In order to address this deficit and to help provide consistency of interpretation of the law, ABA worked with local Omanis to create a U.S.-style benchbook for use in this area. The book is currently being printed and will serve as a model for further practical guides in other areas of law. Continuing ABA presence will ensure that this important tool is fully rolled out and integrated into judicial practice in the country.

Recent Activities

16. (C) The ABA recently provided training and guidance for the Omani team for the "Willem C Vis International Commercial Moot Competition" in Vienna, Austria. The team, which received praise as the best new team, consisted only of women. Dr. Rashid from the law college noted that the questions the ABA advisor asked during the practice sessions were identical to those used in the competition, thus preparing the team extremely effectively. To follow on, ABA encouraged the Omani Lawyers Association to hold its first-ever general education meeting, at which the ABA country director discussed "ethics and admission-to-practice regulations for lawyers." This was followed by a second session on Arbitration, Mediation and Dispute Resolution. This kind of invaluable, hands-on involvement is possible only because there is an in-country ABA presence.

Judicial Training Institute

17. (C) ABA's original Oman country plan involved significant programming with the Sultanate's Judicial Training Institute. Unfortunately, this new Institute did not begin its activities as

promptly as planned; in fact, due to budget and internal administrative issues beyond the ABA's control, the Institute is still not open. Nonetheless, discussion regarding the Institute allowed the ABA to develop significant relationships at the Ministry of Justice, an entity historically almost totally resistant to U.S. programming, which has opened the door for extremely useful training this spring. In April, the ABA conducted a workshop on Alternative Dispute Resolution attended by 42 judges, mediators, administrative judges, and court managers, followed by a workshop on Case Management Reforms. In late May, the first Judicial Training Institute training took place, focusing on training and evaluating judges to become teachers at the institute. Evaluations of this program were strongly positive, with one attendee saying, "I consider this training program among the most successful programs I attended." Over half of the attendees wanted the program to be longer and the quality was rated as excellent. Additional training topics requested by the Ministry have included: expediting the disposition of cases, trial management, management of education and training institutions, arbitration, international law, aspects of pedagogy including dealing with difficult, gifted, or underachieving students, electronic crimes, the role of Interpol in fighting crime, and commercial law in light of international economic developments. Other suggestions have included ABA field visits for Omani judges to go to the U.S. to learn about American judicial mechanisms.

Ministry of Legal Affairs

18. (C) Omani bureaucracy also derailed plans to work with the Ministry of Legal Affairs (MOLA) on public awareness campaigns following a decision that such campaigns should be conducted only by the Ministry of Information. Because of ABA's in-country presence, the country director leveraged his existing relationship with MOLA to work instead on providing much-needed training on contract drafting in English (the language of commerce here), with an advanced program in construction and engineering law. As MOLA must officially approve all government contracts, this training has significantly increased transparency in the contracting processing

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Oman. These programs were very well received by the Ministry, which has requested additional training in further areas of contract law.

Judges-Lawyers Conference

19. (C) ABA has been involved in initial planning aimed at convincing the Ministry of Justice to seek cabinet approval for a Judges-Lawyers Conference, or "Bench-Bar Program." The ABA advisor initially discussed the idea with a key advisor to the Minister who was enthusiastic about the proposal and suggested a letter from an Omani lawyer to the Minister as the best path forward. This letter specifically mentioned the ABA as a partner in the endeavor.

Funding from Oman

10. (C) In the past, ABA has sought Omani cost sharing for its work, however, these efforts have to date been unsuccessful. This reluctance reflects both the complete unfamiliarity of the concept among many key players and Oman's relative lack of resources in comparison to Gulf neighbors.

11. (C) Comment: Establishing strong institutions to support the rule of law is both critical to on-going development and a key part of the Sultan's and our long-term vision for the country. When a new law is passed (often at USG or international urging - as in the cases of TIP or labor laws resulting from the FTA) a tremendous amount of work remains before the law can be adequately enforced. The public prosecution must know how to investigate and prosecute the law, attorneys must know how to defend, and perhaps most importantly, judges must be trained on how to interpret the law to make fair judgments. To truly strengthen rule of law efforts, work must proceed in all of these areas in order for the system to remain balanced and work effectively. Over the past six months, ABA has begun or continued programs that address all levels of the judicial system. While each program is useful, the integration of all of them is invaluable, critical to the ongoing development of rule of law in Oman (as well as, in the cited examples, fundamentally supporting U.S. commercial interests with the FTA and human rights interests with the TIP laws). While the International Labor Organization is working under a USG funded grant with the newly appointed labor inspectors at the Ministry of Manpower to provide training in monitoring labor law violations (ref C), the ABA is working at the other end of the process to allow violations uncovered by the inspectors to be adequately prosecuted.

12 (C) Comment continued: The integrated programming conducted by the ABA is crucial to the on-going achievement of Embassy goals. Limiting funding to a single component of these programs for the remainder of 2009 and providing uncertain, out-of-country support moving forward would destroy a painstakingly created partnership. As MEPI has already provided FY09 funding to the ABA, Post strongly advocates that MEPI encourage ABA to allow the in-country presence to remain engaged in the full array of programming. Post would also consider mechanisms to provide local funding to the ABA implementer to "tide over" until FY10 money is allocated, depending on the availability of funds; even so, such stopgaps would be infinitely more appealing with further certainty about future allocations from MEPI. End Comment.
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